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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ALBERTO DELARA, on behalf of himself  
and others similarly situated,

Plaintiffs,

vs.

DIAMOND RESORTS INTERNATIONAL  
MARKETING, INC.,

Defendant.

Case No. 2:19-cv-00022-APG-NJK

**DEFENDANTS' UNOPPOSED MOTION  
PURSUANT TO LOCAL RULE 7-3(C) TO  
FILE A SECOND MOTION FOR  
SUMMARY JUDGMENT THEREBY  
EXCEEDING LOCAL RULE 7-3(A)'S  
MOTION FOR SUMMARY JUDGMENT  
PAGE LIMIT**

1 Pursuant to Local Rule LR 7-3(c), Defendant Diamond Resorts International Marketing,  
2 Inc. (“Defendant”) file this unopposed motion to file a second Motion for Summary Judgment on  
3 grounds separate from its first Motion for Summary Judgment (“First Motion”) and thereby  
4 exceed Local Rule LR 7-3(a)’s 30-page limit for motions for summary judgment. This motion is  
5 accompanied by the required declaration, attached hereto as Exhibit A. The factors set forth in  
6 the declaration, all of which are incorporated herein by reference, establish good cause to allow  
7 Defendant to exceed the collective 30-page motion for summary judgment page limit. Thus,  
8 Defendant requests the Court grant this motion.

9 This is a complex FLSA collective action involving 251 Opt-In Plaintiffs. On March 19,  
10 2021, Defendant filed a Motion for Summary Judgment or in the alternative, Partial Summary  
11 Judgment addressing Defendant’s procedural defenses relating to the named plaintiff and certain  
12 Opt-In Plaintiffs. (ECF No. 141.) Specifically, Defendant’s First Motion addressed arguments  
13 that: (1) numerous Opt-in Plaintiffs are barred from participating in this collective action due to  
14 their involvement as class members in a prior wage and hour class action settlement that released  
15 the federal wage and hour claims at issue in this action, (2) one Opt-in Plaintiff is contractually  
16 barred from participating in this action by virtue of the individual release they entered into with  
17 Defendant, (3) numerous Opt-in Plaintiffs are barred from participating in this collective action  
18 because they were not employed by Defendant within the applicable statute of limitations, and (4)  
19 the named Plaintiff and multiple Opt-in Plaintiffs are barred from participating in this action due  
20 to judicial estoppel and/or a lack of standing because they filed for bankruptcy and did not report  
21 their alleged entitlement to overtime wages from Defendant and only the bankruptcy trustee has  
22 standing to pursue the claims at issue in this action. Because the foregoing defenses related to  
23 numerous parties in this action and Defendant needed to set forth material facts relating to the  
24 various individuals, as well as the applicable law, and apply that law, the First Motion required  
25 Defendant to use 25-pages, thereby leaving 5 pages remaining on the limit LR 7-3(a) sets forth  
26 for motions for summary judgment.

27 Defendant intends to file a second Motion for Summary Judgment relating to its wage and  
28 hour exemption and good faith defenses – both of which are completely unrelated to the defenses

1 raised in its First Motion. As in the First Motion, Defendant will require adequate pages to  
2 include a statement of material facts, the applicable law, and to set forth its legal arguments.  
3 Although the motion is in draft form, Defendant anticipates the second Motion for Summary  
4 Judgment will be 23-pages long. Because of the complex nature of this class and collective  
5 action, as well as the level of factual detail and analysis needed to support Defendant's defenses,  
6 Defendant could not have raised all of its defenses in a single motion confined to 30 pages.

7 Defendant values brevity and this Court's time. Defendant's need to exceed the page limit  
8 is not due to unnecessarily verbose drafting; rather, it is required to allow Defendant the space  
9 necessary to fully argue its defenses and explain why the Court should grant summary judgment  
10 in Defendant's favor. Allowing Defendant to file a second motion for summary judgment and/or  
11 exceed the page limit set forth in LR 7-3(a) also serves the interests of efficiency and judicial  
12 economy by avoiding litigation of these defenses at trial.

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1 Based on the foregoing, good cause exists to permit two Motions for Summary Judgment,  
2 which combined will exceed the 30-page limit set forth in LR 7-3(a). Defendant accordingly  
3 requests permission to file a second Motion for Summary Judgment, which combined with  
4 Defendant's First Motion will exceed LR 7-3(a)'s 30-page limit by approximately 18 pages.

5  
6  
7 Dated: April 23, 2021

HIRSCHFELD KRAEMER LLP

8  
9 /s/ ALISON M. HAMER

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Attorneys for Defendant

21  
22 IT IS SO ORDERED:

23 Dated: April 26, 2021

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26 ANDREW P. GORDON  
27 UNITED STATES DISTRICT JUDGE  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 23, 2021, I caused a true and accurate copy of the foregoing, **DEFENDANTS' UNOPPOSED MOTION PURSUANT TO LOCAL RULE 7-3(C) TO FILE A SECOND MOTION FOR SUMMARY JUDGMENT THEREBY EXCEEDING LOCAL RULE 7-3(A)'S MOTION FOR SUMMARY JUDGMENT PAGE LIMIT** to be filed with the Clerk of the Court via the Court's CM/ECF system, which sent an electronic copy of the same to the following counsel of record:

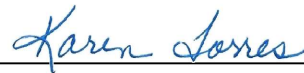
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Dated this 23<sup>rd</sup> day of April, 2021.



Karen Torres